IN THE HIGH COURT OF JUDICATURE
FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.6637/2007.

Sagarmal Takhar
Vs.
Secretary, Secondary Education Board Rajasthan Ajmer and ors.

Date of order : 28/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Amit Singh Shekhawat for the petitioner.
Dr. Arun Chaturvedi for the respondents.

******

BY THE COURT:-

Heard learned counsel for the parties.

2) The petitioner has challenged the action of the respondent No.1, the Board of Secondary Education Rajasthan, Ajmer whereby it cancelled the result of his examination of 10th standard. Petitioner was student of 10th standard and studying in Nav Prerna Education Institute, Sikar. He was allotted Roll No.559010. According to the petitioner, while he was residing in the hostel, he fell down from the stairs of the hostel and sustained fracture of left palm and finger. On the

very same day, he visited the doctor who put the pakka plaster on his left hand.

3) It is contended that petitioner writes from the left hand and as a result, his finger of the left hand got fractured. He could not write in the examination therefore, petitioner reported to the Hostel Warden. At the time of examination, Hostel Warden submitted a written application to the Center Superintendent. The Center Superintendent constituted a Committee which examined the medical prescriptions and treatment result of the petitioner and agreed to provide a Writer to him. It is contended that Writer was provided to a student of 9th standard, namely, Krishna Kumar Khilani. Copy of the application which was submitted by the petitioner to the Center Superintendent on 15/3/2007, the proceedings thereabout which were drawn by the Center Superintendent at 12.40 p.m. on that day and the decision of the Committee dated 17/3/2007 have all been placed on record. Learned counsel for the petitioner argued that Writer as per Regulation 22(2) of the Rajasthan Secondary Education Regulation, 1957, a Writer has to be

provided to a student of lesser standard then the student who is sought to be admitted to examination. The respondent-Board however cancelled the examination of the petitioner on the ground that petitioner took undeserving additional assistance as he himself wrote the roll number on the first page of answer-sheet of the English subject therefore, his examination was cancelled.

4) Dr.Arun Chaturvedi, learned counsel appearing for the Board has opposed the writ petition and argued that copy of the answer-book of the English subject reveal that petitioner had filled in his roll number on the cover of the answer-sheets in his own writing. On the one hand, he was contending that he could not write but, on the other hand, he himself filled in the roll number on the first page of the answer-sheet. It was submitted that the petitioner moved application at 14.40 hours on 15/3/2007 and Committee was set up within five minutes thereafter upto 4.25 hours and the medical certificate which is produced now on record is of 16/3/2007. All these factors do not inspire confidence and thus, the result of the

examination of the petitioner has been rightly cancelled. Intimation about setting up of the Committee sent by the Principal of the School to the Board on 17/3/2007 has not been received by the Board. Dr.Arun Chaturvedi, learned counsel for the respondent-Board argued that the incident of fracture is alleged to have been taken place on 8/3/2007 whereas, the examination took place on 15/3/2007. No steps were taken in between by the petitioner to obtain any medical report or x-ray report.

5) Having heard learned counsel for the parties and perused the record, I find that though the manner in which the Writer has been provided to the petitioner should have been strictly as per the procedure prescribed by the Board of Secondary Education Rjasthan but at the same time, it is not in dispute that the Writer was provided to the petitioner by the Center Superintendent on the recommendation of a Committee which was formed as per their instructions. The Committee upon satisfying itself about the correctness of version of the petitioner, held that due to the fracture in

his left palm, a Writer should be provided to the petitioner. The Writer provided to the petitioner was a student of 9th standard.

6) When the incident took place, petitioner was residing in hostel and not with his parents. He had to therefore depend upon the Hostel Warden and local guardian. Even if the petitioner did not require hospitalization, the fact that had come on record show that due to fracture in left palm of the petitioner, Pakka Plaster was immediately put thereon. Mere fact that the report of the Medical Board which examined him was obtained next day, does not by itself disprove the fact that petitioner did not at all sustain any fracture. Moreover, the intimation of Writer provided to the petitioner was sent to the Board by the school concerned on 17/3/2007. All these events appear to have taken place in a natural course and do inspire confidence.

7) In the circumstances, therefore, decision of the Board in seeking to cancel the entire examination of the petitioner who is student of 10th standard, is too harsh and unsustainable on facts.

8) In the result, the writ petition is allowed. The action of the respondents in seeking to cancel the examination of the petitioner vide their communication dated 23/6/2007 (Annexure-5) is held to be illegal and arbitrary and accordingly, the same is quashed and set-aside. The result of the petitioner's examination shall be declared by the University within a fortnight from the date of receipt of certified copy of this order.

There shall be no order as to costs.

(MOHAMMAD RAFIQ), J.

anil/-